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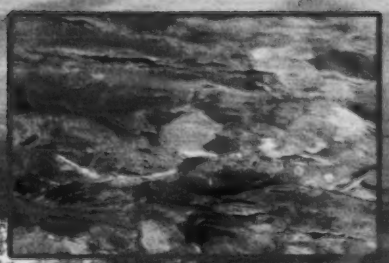

ANNUAL REPORT TO PARLIAMENT

on the Administration and Enforcement of the Fish Habitat/Fisheries Protection and Pollution Prevention Provisions of the *Fisheries Act*

April 1, 2013
To March 31, 2014

Canada

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Minister of
Fisheries and Oceans

Ministre des
Pêches et des Océans

Ottawa, Canada K1A 0E6

Ms. Audrey O'Brien
Clerk of the House of Commons
Room 228-N, Centre Block
House of Commons
Ottawa, Ontario
KIA 0A6

Dear Ms. O'Brien:

In accordance with the provisions of section 42.1 of the *Fisheries Act*, I have the honour to present, in both official languages, two copies of the Annual Report on the Administration and Enforcement of the Fish Habitat/Fisheries Protection and Pollution Prevention Provisions of the *Fisheries Act* for the fiscal year 2013-2014.

In conformity with the requirements of the Act, these copies are for tabling in the House of Commons.

Sincerely,

Gail Shea, P.C., M.P.

Attachments

Minister of
Fisheries and Oceans

Ministre des
Pêches et des Océans

Ottawa, Canada K1A 0E6

Mr. Gary O'Brien
Clerk of the Senate and Clerk of the Parliaments
Room 183-S, Centre Block
The Senate
Ottawa, Ontario
K1A 0A4

Dear Mr. O'Brien:

In accordance with the provisions of section 42.1 of the *Fisheries Act*, I have the honour to present, in both official languages, two copies of the Annual Report on the Administration and Enforcement of the Fish Habitat/Fisheries Protection and Pollution Prevention Provisions of the *Fisheries Act* for the fiscal year 2013-2014.

In conformity with the requirements of the Act, these copies are for tabling in the Senate.

Sincerely,

Gail Shea, P.C., M.P.

Attachments

DISCLAIMER

As part of the *Jobs, Growth and Long-term Prosperity Act* (Bill C-38), which received Royal Assent on June 29, 2012 and subsequently the *Jobs and Growth Act* (Bill C-45), which received Royal Assent on December 14, 2012, amendments were made to the fish habitat protection and pollution prevention provisions of the *Fisheries Act*. The fisheries protection provisions were also introduced as part of these amendments but were not brought into force until November 25, 2013 to replace the fish habitat protection provisions.

The amended legislation required a modernization of Fisheries and Oceans Canada's policies and operations related to its mandate for fisheries protection. This resulted in the creation of the Fisheries Protection Program in April 2013, and the release of the *Fisheries Protection Policy Statement* in November 2013, which replaced the *Policy for the Management of Fish Habitat* (1986).

Since this Report covers the period from April 1, 2013 to March 31, 2014, the information has been arranged to reflect the policy and administrative regime prior to and after changes came into force on November 25, 2013. Therefore, the information in this Report includes both the fish habitat protection provisions (prior to November 25, 2013) and the fisheries protection provisions (as of November 25, 2013).

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Abstract

Fisheries and Oceans Canada. 2014. Annual Report to Parliament on the Administration and Enforcement of the Fish Habitat/Fisheries Protection and Pollution Prevention Provisions of the *Fisheries Act*. April 1, 2013 to March 31, 2014.

This is a report on the administration of the fish habitat/fisheries protection provisions of the *Fisheries Act* as coordinated by Fisheries and Oceans Canada's Fisheries Protection Program and the pollution prevention provisions of the *Fisheries Act* coordinated by Environment Canada's Pollution Prevention Program during the 2013-2014 fiscal year. It highlights the activities of the two departments and support from partners such as federal agencies and provincial governments.

List of Acronyms and Abbreviations

AESRD	Alberta Environment and Sustainable Resource Development
C&P	Conservation and Protection Program
CCME	Canadian Council of Ministers of the Environment
CEPA 1999	*Canadian Environmental Protection Act, 1999*
CEAA 2012	*Canadian Environmental Assessment Act, 2012*
CESD	Commissioner for Environment and Sustainable Development
CNSC	Canadian Nuclear Safety Commission
CSAS	Canadian Science Advisory Secretariat
CSSP	Canadian Shellfish Sanitation Program
DFO	Fisheries and Oceans Canada
EA	Environmental Assessment
EC	Environment Canada
EEM	Environmental Effects Monitoring
FPP	Fisheries Protection Program
FCSAP	Federal Contaminated Sites Action Plan
HADD	Harmful Alteration, Disruption or Destruction
MMER	*Metal Mining Effluent Regulations*
MOU	Memorandum of Understanding
NEB	National Energy Board
NGO	Non-Governmental Organization
PATH	Program Activity Tracking System for Habitat Management
PPER	*Pulp and Paper Effluent Regulations*
RFCPP	Recreational Fisheries Conservation Partnerships Program
RISS	Regulatory Information Submission System
SARA	*Species at Risk Act*
WSER	*Wastewater Systems Effluent Regulations*

1.0 Executive Summary

Canada's freshwater and marine fish species and fish habitat play a critical role in Canada's economic prosperity and biological diversity. This Annual Report to Parliament summarizes the administration and enforcement of the fish habitat[1]/fisheries protection and pollution prevention provisions of the *Fisheries Act*[2] from April 1, 2013 to March 31, 2014.

The annual report highlights the activities of Fisheries and Oceans Canada's (DFO's) Fisheries Protection Program (FPP), Ecosystems and Oceans Science Sector, and Conservation and Protection Program (C&P) Directorate, as well as Environment Canada's (EC's) Environmental Enforcement Branch and related programs.

As part of the *Jobs, Growth and Long-term Prosperity Act* (Bill C-38), which received Royal Assent on June 29, 2012 and subsequently the *Jobs and Growth Act* (Bill C-45), which received Royal Assent on December 14, 2012, amendments were made to the fish habitat protection and pollution prevention provisions of the *Fisheries Act*. The fisheries protection provisions were also introduced as part of these amendments but were not brought into force until November 25, 2013 to replace the fish habitat protection provisions.

The amended legislation required a modernization of Fisheries and Oceans Canada's policies and operations related to its mandate for fisheries protection. This resulted in the creation of the Fisheries Protection Program in April 2013, and the release of the *Fisheries Protection Policy Statement* in November 2013, which replaced the *Policy for the Management of Fish Habitat* (1986).

DFO is responsible for the administration of the fish habitat/fisheries protection provisions of the *Fisheries Act*.

Environment Canada's (EC's) lead responsibility for administration of the pollution prevention provisions of the *Fisheries Act* was formalized by a Governor in Council Order published in *Canada Gazette*, Part II on March 12, 2014. The Minister of Environment is now legally responsible for all subject-matters subject to these provisions except for those matters related to aquaculture, and aquatic invasive species or aquatic species that constitute a pest to the fisheries for which the Minister of Fisheries and Oceans remains responsible.

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[1]Fish habitat protection provisions, sections 32 and 35, of the *Fisheries Act* were repealed on November 25, 2013.
[2]The full text of the *Fisheries Act* including the new fisheries protection provisions can be found at http://laws-lois.justice.gc.ca/eng/acts/F-14/.

1.1 Purpose of Annual Report

Section 42.1 of the *Fisheries Act* requires the Minister of Fisheries and Oceans to table an annual report to Parliament on the administration and enforcement of the fish habitat/ fisheries protection and pollution prevention provisions, including a statistical summary of convictions under section 40 of the Act.

The Annual Report is organized under the following three parts:

- Part 1.0 presents the executive summary.
- Part 2.0 provides the legislative and policy context for the conservation and protection of fish habitat/fisheries. In addition, information on the Fisheries Protection Program is provided, which includes the development of regulations, policies, and guidelines, as well as the Recreational Fisheries Conservation Partnerships Program (RFCPP) and partnering arrangements. This section also reports on DFO activities in 2013-2014 for the administration and enforcement of the fish habitat/fisheries protection provisions of the *Fisheries Act*. This part covers both the review of development proposals (referrals) by the FPP, and the support provided by the Ecosystem and Oceans Science Sector and C&P programs.
- Part 3.0 reports on the work of EC in 2013-2014 for the administration and enforcement of the pollution prevention provisions of the *Fisheries Act*, as well as their development of regulations, policies and guidelines related to the pollution prevention provisions of the *Fisheries Act*.

1.2 Administration and Enforcement of the Fish Habitat/Fisheries Protection Provisions of the *Fisheries Act*

1.2.1 Review of Development Proposals (Referrals)

FPP activities contribute to the sustainability and ongoing productivity of Canada's commercial, recreational and Aboriginal fisheries by minimizing threats from works, undertakings and activities taking place in and near Canadian waters.

Prior to November 25, 2013, FPP staff reviewed development proposals (referrals) to assess if a harmful alteration or disruption, or the destruction (HADD) of fish habitat or killing of fish by means other than fishing was likely to result from a proponent's proposed work, undertaking or activity. Staff would provide advice to the proponent on how to proceed with the proposed work, undertaking or activity in a manner that would comply with the fish habitat protection provisions of the *Fisheries Act*. Advice was commonly provided in the form of a "letter of advice" or an "operational statement" for low risk activities. An "authorization" pursuant to paragraph 32(2)(*c*) and/or paragraph 35(2)(*b*) of the *Fisheries Act* would be issued for the killing of fish and/or when a HADD of fish habitat could not be avoided.

When the new fisheries protection provisions came into force on November 25, 2013, FPP launched its new Projects Near Water website[3] where project proponents are able to access DFO's recommended best practices for avoiding harm to fish and fish habitat. The website also includes project-specific self-assessment criteria to assist proponents in determining the need for a DFO review. Proponent self-assessment criteria consist of lists of project activities and water body types for which a DFO review is not required provided DFO best practices (entitled "Measures to Avoid Causing Harm to Fish and Fish Habitat") are followed. The Measures to Avoid Causing Harm to Fish and Fish Habitat replace all operational statements previously produced by DFO. When a proponent is unable to meet the self-assessment criteria and avoid serious harm to fish that are part of or support a commercial, recreational or Aboriginal fishery, they can complete a Request for Review Form and submit it to DFO for review. As part of the review process, staff must verify whether the project under review has the potential to adversely affect aquatic species listed under SARA, or their critical habitat so that appropriate measures can be taken. An "authorization" pursuant to paragraph 35(2)(*b*) of the *Fisheries Act* would be issued if serious harm to fish could not be avoided.

Since this Report covers the period from April 1, 2013 to March 31, 2014, the information has been arranged to reflect the policy and administration regime prior to and after changes came into force on November 25, 2013. Therefore, the information in this Report includes both the fish habitat protection provisions (prior to November 25, 2013) and the fisheries protection provisions (as of November 25, 2013).

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[3]Projects Near Water website: http://www.dfo-mpo.gc.ca/pnw-ppe/index-eng.html.

During fiscal year 2013-2014 in the period between April 1, 2013 and November 25, 2013 (~8 months), the FPP:

- Reviewed 2,620 development proposals (referrals) from across Canada to ensure compliance with the *Fisheries Act* to avoid the killing of fish by means other than fishing and the HADD of fish habitat (Table 1);
- Provided advice to proponents or others on 2,115 occasions (Table 4); and
- Issued 132 authorizations under the former paragraphs 35(2)(*b*) and 32(2)(*c*) of the *Fisheries Act* (Table 4).

During fiscal year 2013-2014 in the period from November 25, 2013 and March 31, 2014 (~4 months), the FPP:

- Reviewed 1,120 development proposals (referrals) from across Canada to ensure compliance with the *Fisheries Act* to avoid serious harm to fish (Table 2);
- Provided advice to proponents or others on 411 occasions (Table 5); and
- Issued 17 authorizations under paragraph 35(2)(*b*) of the *Fisheries Act* (Table 5).

The resulting total numbers for fiscal year 2013-2014 were as follows:

- Review of 3,740 development proposals (referrals; Table 3, Figure 1);
- Provision of advice to proponents or others on 2,526 occasions (Table 6, Figure 2); and
- Issuing of 149 authorizations under paragraphs 35(2)(*b*) and 32(2)(*c*) of the *Fisheries Act* (Table 6, Figure 3).

1.2.2 Compliance and Enforcement

DFO's Conservation and Protection Program is responsible for monitoring compliance with legislation and regulations regarding the conservation of fisheries resources and fisheries habitat. The Minister of Fisheries and Oceans appoints fishery officers to enforce fisheries regulations and management plans, as well as the fish habitat/fisheries protection provisions of the *Fisheries Act*.

Enforcement of the fish habitat/fisheries protection provisions is carried out pursuant to the *Compliance and Enforcement Policy for the Habitat Protection and Pollution Prevention Provisions of the Fisheries Act* (2001). Enforcement actions include inspections to monitor or verify compliance; investigations of alleged violations; and the issuance of warnings, Inspector's Directions and Ministerial Orders. Court actions such as prosecutions, court orders upon conviction and suits for recovery of costs can also be pursued where appropriate.

During fiscal year 2013-2014, DFO:

- Dedicated a total of 11,075 hours on conservation and protection activities related to fish habitat/fisheries (Fig. 5);
- Issued 46 warnings under the fish habitat/fisheries protection provisions of the *Fisheries Act* (Table 11);

- Laid 2 charges under the fish habitat/fisheries protection provisions of the *Fisheries Act* (Table 11);
- Proceeded with 6 alternative measures to prosecution (Table 11);
- Issued 20 Inspector's Directions (Table 11); and
- Successfully completed 5 convictions under the fish habitat/fisheries protection and pollution prevention provisions of the *Fisheries Act* (Table 12).

1.3 Administration and Enforcement of the Pollution Prevention Provisions of the *Fisheries Act*

In 1978, the Minister of the Environment was given the lead responsibility for the administration of the pollution prevention provisions of the *Fisheries Act*. These responsibilities were formalized by the *Order Designating the Minister of the Environment as the Minister Responsible for the Administration and Enforcement of Subsections 36(3) to (6) of the Fisheries Act* published in the *Canada Gazette,* Part II, on March 12, 2014 (hereafter referred to as the "Designation Order"). As a result, the Minister of the Environment is now legally responsible for the administration and enforcement of subsections 36(3) to (6) of the Act for all purposes and subject matters, except the following, which remain the responsibility of the Minister of Fisheries and Oceans:

- the construction, operation, modification and decommissioning of, and other activity in relation to, an aquaculture facility, and any resulting effects of those activities on the waters frequented by fish; and
- the control or eradication of any aquatic invasive species or aquatic species that constitute a pest to the fisheries.

A key provision of the pollution prevention requirements of the *Fisheries Act* is subsection 36(3), which prohibits the deposit of deleterious substances in water frequented by fish, unless the deposit is authorized by regulations under the Act or other federal legislation. Deleterious substances include any substance that, if added to water, would degrade, alter, or form part of a process of degradation or alteration of the quality of water so that it is rendered deleterious to fish or fish habitat or for human consumption of any fish from that water.

Environment Canada administers the pollution prevention provisions through a suite of activities including compliance promotion, regulations, environmental effects monitoring (EEM), water quality monitoring, enforcement, emergencies management and administrative agreements. The Department's 2013-2014 activities may be summarized as follows:

- Development and publication in *Canada Gazette*, Part II of the Designation Order establishing the Minister of the Environment responsible for subsections 36(3) to (6) of the Act;[4]

[4]This was undertaken jointly with DFO.

- Development and publication in *Canada Gazette*, Part I of new regulations under subsection 36(5.1), which proposed conditions under which the Minister may authorize the deposit of deleterious substances via Ministerial Regulations;[5]
- Development and publication in *Canada Gazette*, Part I of new regulations under subsection 36(5.2), which proposed to authorize the deposit of deleterious substances in the Experimental Lakes Area;
- Administration, compliance promotion and enforcement for existing regulations under subsection 36(5) for the pulp and paper sector and for metal mines, including the EEM elements of those regulations;
- Administration, compliance promotion and enforcement of the *Wastewater Systems Effluent Regulations* under subsection 36(5) for the wastewater sector (including federal, provincial, municipal and First Nations wastewater systems);
- Development and publication in *Canada Gazette*, Part I of a new proposed administrative agreement with New Brunswick for the *Wastewater Systems Effluent Regulations* further to subsection 4.1(4);
- Contributing to environmental emergency management activities by managing Environment Canada's pollution incident notification system and undertaking response actions to significant pollution incidents related to the deposit of deleterious substances not authorized under the Act, as per subsections 38(5) and 38(7);
- Conducting water quality monitoring under the Canadian Shellfish Sanitation Program;
- Implementation of administrative and notification agreements with provinces that support effective administration of the pollution prevention provisions and associated regulations;
- Conducting general ongoing reviews and improvements to the administration and enforcement of the pollution prevention provisions; and
- Performing compliance promotion to support subsection 36(3), which prohibits the deposit of deleterious substances to waters frequented by fish unless authorized by regulation and to support notification in the event of an unauthorized deposit as required by subsection 38(5) (this subsection was previously number 38(4)).

[5]This was undertaken jointly with DFO.

2.0 Administration and Enforcement of the Fish Habitat/Fisheries Protection Provisions of the *Fisheries Act*

2.1 Benefit for Canadians: Sustainable Aquatic Ecosystems

FPP activities are aligned with DFO's strategic outcome of *sustainable aquatic ecosystems*. This outcome contributes to the conservation, protection, and sustainability of Canada's aquatic ecosystems through the management of risks that affect species, oceans, and fish habitats. Specifically, and as stated in the Departmental Performance Report (2013-2014), FPP activities contribute to managing threats to the sustainability and ongoing productivity of commercial, recreational, and Aboriginal fisheries. In the context of government-wide initiatives for Responsible Resource Development and streamlined regulations, the program helps Canadians avoid, mitigate, or manage serious harm to fisheries of commercial, recreational, or Aboriginal importance. The program uses scientific knowledge and understanding to develop regulations and policies; provide formal advice and direction; engage with individuals, organizations, and other levels of government; and in order to manage compliance in support of its fisheries protection objectives.

For more information on FPP activities, as it contributes to progress towards the achievement of sustainable aquatic ecosystems, please refer to the annual Departmental Performance Report for Fisheries and Oceans Canada.[6]

2.2 The Legislative Setting and Policy

2.2.1 Legislative Basis for the Protection of Fish Habitat/Fisheries

The Government of Canada fulfills its constitutional responsibilities for seacoast and inland fisheries through the administration and enforcement of the *Fisheries Act*. This Act provides the Minister of Fisheries and Oceans with powers and authorities to conserve and protect fish habitat,[7] which are essential to sustaining freshwater and marine fish species and populations that Canadians value.

Prior to November 25, 2013, sections 32 and 35 were the key fish habitat protection provisions of the *Fisheries Act*. Section 32 prohibited the killing of fish by means other than fishing and section 35 prohibited any work, undertaking or activity that would cause the harmful alteration or disruption, or the destruction (HADD) of fish habitat, unless authorized by the Minister of Fisheries and Oceans, or through regulations made by the Governor in

[6] The report is available at http://www.dfo-mpo.gc.ca/reports-rapports-eng.htm.

[7] Fish habitat is defined under subsection 2(1) of the *Fisheries Act* as "spawning grounds and any other areas, including nursery, rearing, food supply and migration areas on which fish depend directly or indirectly in order to carry out their life processes".

Council under the *Fisheries Act*. In addition to sections 32 and 35, DFO also administered and enforced other provisions related to the fish habitat protection provisions of the *Fisheries Act*, including sections 20, 21, 22, 26, 28, and 30.

As of November 25, 2013, the new section 35 came into force. It prohibits any work, undertaking or activity that results in serious harm to fish that are part of a commercial, recreational or Aboriginal fishery, or to fish that support such a fishery, unless authorized by the Minister of Fisheries and Oceans, through regulations, or other mechanisms provided for under the *Fisheries Act*. "Serious harm to fish" is defined as the death of fish or the permanent alteration to, or destruction of, fish habitat. Definitions for the terms "commercial", "recreational" and "Aboriginal", in relation to a fishery, are also included under subsection 2(1) of the *Fisheries Act*.

These amendments to the *Fisheries Act* established section 6, which requires the Minister of Fisheries and Oceans to take into account four factors for consistent and transparent decision-making. The factors in section 6 are (*a*) the contribution of relevant fish to fisheries; (*b*) fisheries management objectives; (*c*) avoidance, mitigation and offsetting measures; and (*d*) public interest. The factors in section 6 must be taken into account once it has been determined that a regulation will be made in respect of section 35 or under paragraph 37(3)(*c*) or 43(1)(*i.01*) or subsection 43(5) or a Ministerial power will be exercised under subsection 20(2) or (3) or 21(1), paragraph 35(2)(*b*) or (*c*) or subsection 35(3), or under subsection 37(2) with regard to an offence under subsection 40(1) or with regard to harm to fish. Section 6 also includes a purpose statement provided in section 6.1: "The purpose of section 6, and of the provisions set out in that section, is to provide for the sustainability and ongoing productivity of commercial, recreational and Aboriginal fisheries.".

In support of the application of the fisheries protection provisions, regulations were developed that identify the information and documentation that must be submitted with an application for an authorization under paragraph 35(2)(*b*) of the *Fisheries Act*. The regulations also set out the process and time limits that will be followed in the processing of applications. The draft regulations were published in *Canada Gazette,* Part I for public consultation between April 13, 2013 and May 13, 2013. Following that consultation, the *Applications for Authorization under Paragraph 35(2)(b) of the Fisheries Act* were finalized and published in *Canada Gazette*, Part II and have been in force since November 25, 2013. *An Applicant's Guide to Submitting an Application for Authorization under Paragraph 35(2)(b) of the Fisheries Act* was developed to provide guidance to proponents in addressing those regulations.

Fisheries Act changes that also came into force on November 25, 2013 included amendments to provisions that support the administration and enforcement of the fisheries protection provisions. These include sections 20, 21, and parts of 37, 38, 40 and 43 that are collectively considered the fisheries protection provisions of the Act:

- Powers for the Minister to ensure the free passage of fish and to prevent harm to fish (e.g., request that obstructions be removed, that fish guards be installed, that fishways be constructed, minimal flows of water be maintained) (sections 20 and

21);

- Powers for the Minister to request plans and specification for any work, undertaking or activity that may cause serious harm to fish or is proposed in an ecologically significant area (as defined in regulations) (section 37);
- Authority for the Minister to appoint inspectors and analysts (subsection 38(1));
- Description of inspectors' powers (including entry, search and direction of preventive, corrective or cleanup measures) (subsections 38(3), 38(7.1) and 38(8));
- Proponents have the Duty to Notify an inspector, fishery officer or a prescribed authority of any works, undertakings or activities that result in serious harm to fish (subsection 38(4)), as well as the Duty to Take Corrective Measures and Reporting (subsections 38(6) and 38(7)); and
- Description of offences and punishment (section 40).

2.2.2 Policy for the Administration of the Fish Habitat/Fisheries Protection Provisions of the *Fisheries Act*

The legislative changes to the *Fisheries Act* required a new policy approach. When the changes came into force on November 25, 2013, the *Policy for the Management of Fish Habitat* (1986)[8] was rescinded and replaced with the *Fisheries Protection Policy Statement*[9] and the *Fisheries Productivity Investment Policy: A Proponent's Guide to Offsetting*.[10] These new policies support and guide the implementation of the fisheries protection provisions of the *Fisheries Act*. They describe DFO's efforts to focus on commercial, recreational and Aboriginal fisheries; provide enhanced compliance and protection tools; provide clarity, certainty and consistency of regulatory requirements; and enable partnerships with stakeholders such as other agencies of government and local groups to ensure a comprehensive approach to fisheries protection.

The goal of DFO in applying this *Fisheries Protection Policy Statement* is to provide for the sustainability and ongoing productivity of commercial, recreational and Aboriginal fisheries. Through the *Fisheries Protection Policy Statement*, DFO's objectives are to provide consistent guidance through regulations, standards and directives, and to make regulatory decisions in a timely manner. In this way, proponents will have the necessary information and direction to avoid, mitigate and offset harmful impacts to fish and fish habitat so that they will meet the goal of this policy, and thereby comply with the fisheries protection provisions of the *Fisheries Act*.

The *Fisheries Productivity Investment Policy* provides guidance on undertaking effective measures to offset serious harm to fish that are part of or that support a commercial, recreational or Aboriginal fishery, consistent with the fisheries protection provisions of Canada's *Fisheries Act*. This policy was developed by DFO to assist proponents of proposed works, undertakings or activities that could result in serious harm to fish to

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[8] *Policy for the Management of Fish Habitat* (1986): http://www.dfo-mpo.gc.ca/Library/23654.pdf.
[9] *Fisheries Protection Policy Statement*: http://www.dfo-mpo.gc.ca/pnw-ppe/pol/index-eng.html.
[10] *Fisheries Productivity Investment Policy: A Proponent's Guide to Offsetting*: http://www.dfo-mpo.gc.ca/pnw-ppe/offsetting-guide-compensation/index-eng.html.

develop their offset plans prior to seeking authorization under section 35(2)(*b*) of the *Fisheries Act*. It (*i*) provides an overview of applying offsetting measures for fisheries protection, including objectives, guiding principles and types of measures; and (*ii*) describes step-by-step procedures for developing a plan to apply offsetting measures under the fisheries protection provisions of the *Fisheries Act*, including selecting the appropriate measures, determining the extent of measures needed, and ensuring monitoring and reporting.

2.3 Fisheries Protection Program

The amended legislation required a modernization of Fisheries and Oceans Canada's policies and operations related to its mandate for fisheries protection. This resulted in the creation of the Fisheries Protection Program (FPP). The new FPP organizational structure took effect on April 2, 2013.

The new organization has sixteen service delivery points across the country with a more centralized presence in each of the regions. Regulatory review assessors in the regions are divided into specialized sector-based units including Triage; Mining, Oil and Gas; Linear Development; Marine and Coastal; and Hydro and Flows. Each regional headquarters office also has a Client Liaison, Partnerships, Standards and Guidelines team that is the focal point for developing partnership arrangements and clear requirements for complying with the *Fisheries Act*.

Staff located in National Headquarters are responsible for the overall coordination of the delivery of the program, providing national policy direction, strategic advice and liaison with other DFO sectors, federal departments and national industry and non-governmental organizations (NGOs).

The FPP has responsibilities pursuant to the *Fisheries Act*, the *Species at Risk Act* (SARA), environmental assessment regimes established under land claims agreements, as well as the *Canadian Environmental Assessment Act, 2012* (CEAA 2012). Consequently, the FPP is a major federal regulator involved in the reviews of many development projects occurring in or around fresh and marine fish-bearing waters across Canada.

The Department continues to provide site-specific review of projects where available best practices cannot avoid or mitigate all impacts to fish and fish habitat. For low risk projects, proponents are responsible for obtaining advice from qualified environmental professionals and apply measures to avoid and mitigate harm.

2.3.1 Recreational Fisheries Conservation Partnerships Program

With over two million lakes and rivers that flow into five major ocean drainage basins, Canada is well known for its recreational fisheries. Fishing has historically been one of the country's popular leisure activities for both Canadians and visitors alike. Every year, anglers from all around the world come to visit and participate in recreational fishing activities across Canada. The important socio-economic contributions of recreational fishing are felt in all of Canada's provinces and territories, particularly in some of the more remote areas of the country. Anglers contributed a total of $8.3 billion to various local economies in Canadian provinces and territories in 2010 (year of most recent Survey of Recreational Fishing in Canada).

While DFO has a regulatory regime in place to mitigate threats to recreational fisheries, historical impacts have left these fisheries compromised and in need of improvement in many areas. Over the years, recreational fisheries have consistently faced multiple and interacting threats, including pollution, invasive species and habitat loss and degradation.

Of these, the issue of habitat loss is the most commonly identified threat to freshwater fish, the target of most of Canada's recreational fishing activities. Common forms of fisheries habitat loss include habitat degradation and erosion, barriers to fish migration and water flow alterations. There is, however, potential to address these historical impacts through restorative action and partnerships.

Recognizing the importance of a collaborative approach to fisheries protection, the Recreational Fisheries Conservation Partnerships Program (RFCPP) was established in June 2013 to strengthen partnerships with third parties in order to restore, rebuild and rehabilitate recreational fisheries habitat. This program represents an investment of $25 million over 3 years.

The RFCPP supports DFO's mission of economically prosperous fisheries and sustainable aquatic ecosystems by restoring recreational fisheries habitat, thus enhancing the productivity of Canada's recreational fisheries. The program is an element of DFO's transformative approach that shifts focus from habitat management to fisheries protection by concentrating effort and resources on managing threats to the sustainability of Canada's fisheries.

More specifically, through contribution funding, the RFCPP enables recreational fishing/angling groups, as well as conservation organizations, to undertake on-the-ground, multi-partner projects that directly restore compromised and/or threatened recreational fisheries habitat. Examples of restoration projects include stabilizing/enhancing habitat along eroding banks to reduce siltation in the water while also ensuring free and open passage for fish, installing/constructing in-stream restoration structures (e.g., structures that restore, create or enhance spawning habitat) and riparian planting.

In 2013-2014, the RFCPP approved $5.9 million in funding for 74 different organizations to undertake 94 projects taking place across the country in 2013-2014 (one-year projects) or 2013-2015 (two-year projects). Of that amount, $3.1 million was expended in 2013-2014 and leveraged $7.0 million, for a leverage ratio of 1 to 2.25. That is, for every $1 expended by the RFCPP, an additional $2.25 was invested from other sources. The results achieved with the $10.1 million in total project value include:

- 380 partners directly supported the 94 projects;
- over 1,700 volunteers donated their time or support toward the projects; and
- over 2.4 million square metres and 2,000 linear kilometres of recreational fisheries habitat were restored.

Recreational Fisheries Conservation Partnerships Program – Success!

With funding from the RFCPP, a fish bypass channel was constructed by Valleys 2000 Incorporated on the Bowmanville Creek to help preserve and restore the recreational fishery in Southern and Central Lake Ontario. Approximately 31 fish species are known to live, spawn and migrate along the Bowmanville and Soper Creek watersheds, including Atlantic and Chinook Salmon, which have been reintroduced into the area in the past decade. Before the bypass channel was built, an old industrial dam had been a major barrier to these species attempting to swim to spawning grounds – now they are able to traverse around the dam.

Before: Manual salmon transfers

After: Salmon entering bypass channel

Photo credits: Charles Hastings ("before" photos); Hillary Prince ("after" photos)

For more information on the RFCPP's successes, please visit http://www.dfo-mpo.gc.ca/pnw-ppe/rfcpp-ppcpr/success-succes-eng.html.

2.3.2 Partnering Arrangements with the National Energy Board and Canadian Nuclear Safety Commission

On December 16, 2013, Fisheries and Oceans Canada (DFO) signed Memoranda of Understanding (MOU) with the National Energy Board (NEB) and the Canadian Nuclear Safety Commission (CNSC). These administrative arrangements support the Government's objective of reducing overlap and duplication within the federal regulatory system, thereby improving the efficiency and effectiveness of regulatory reviews and decision-making under the fisheries protection provisions of the *Fisheries Act*.

The MOU with the NEB applies to energy infrastructure projects regulated by the NEB under the *National Energy Board Act*.

The MOU with the CNSC applies to nuclear facilities regulated under the *Nuclear Safety and Control Act*.

Under the MOUs, fisheries experts within the NEB and CNSC review applications for these projects submitted to them under their respective legislation to ensure appropriate measures are being applied to avoid and mitigate impacts to fish and fish habitat, including listed aquatic species and their critical habitat under the *Species at Risk Act* (SARA). The FPP becomes involved in the review process in those cases when impacts cannot be avoided. In all these cases, the Minister of Fisheries and Oceans remains responsible for fisheries protection, including the decision on the issuance of *Fisheries Act* authorizations.

The NEB and CNSC will notify DFO and report on actions and decisions made under these MOUs, as well as the results of monitoring for conformity and compliance, any corrective actions required, and any anticipated results of the corrective actions.

As required under the MOUs, DFO, working with the NEB and CNSC, will provide information on the results achieved under the MOUs in future Annual Reports to Parliament.

2.4 Overview of the Administration of the Fish Habitat/ Fisheries Protection Provisions of the *Fisheries Act*

The administration of the fish habitat/fisheries protection provisions of the *Fisheries Act* is the responsibility of DFO's FPP. The program accomplishes this through the timely review of projects and by engaging with external stakeholders, as well as Aboriginal groups, on the ongoing development of tools, policies and guidance.

Prior to November 25, 2013, FPP staff reviewed development proposals (referrals) to assess if a HADD of fish habitat (section 35) or killing of fish by means other than fishing (section 32) was likely to result from a proponent's proposed work, undertaking or activity. Staff would send advice to the proponent on how to proceed with the work, undertaking or activity in a manner that would comply with the *Fisheries Act*. Advice was commonly provided in the form of a "letter of advice" or an "operational statement" for low risk activities. An "authorization" pursuant to paragraph 32(2)(*c*) and/or paragraph 35(2)(*b*) of the *Fisheries Act* would be issued for the killing of fish or when HADD of fish habitat could not be avoided.

When the new fisheries protection provisions came into force on November 25, 2013, FPP launched its new Projects Near Water website[11] where project proponents are able to access DFO's recommended best practices for avoiding harm to fish and fish habitat. The website also includes project-specific self-assessment criteria to assist proponents in determining the need for a DFO review. Proponent self-assessment criteria consist of lists of project activities and water body types for which DFO review is not required provided DFO best practices (entitled "Measures to Avoid Causing Harm to Fish and Fish Habitat") are followed. The Measures to Avoid Causing Harm to Fish and Fish Habitat replace all operational statements previously produced by DFO. When a proponent is unable to meet the self-assessment criteria and avoid serious harm to fish that are part of or support a commercial, recreational or Aboriginal fishery, they can complete a Request for Review Form and submit it to DFO for review. As part of the review process, staff must verify whether the project under review has the potential to adversely affect aquatic species listed under SARA, or their critical habitat so that appropriate measures can be taken. An "authorization" pursuant to paragraph 35(2)(*b*) of the *Fisheries Act* would be issued if serious harm to fish could not be avoided.

The *Applications for Authorization under Paragraph 35(2)(b) of the Fisheries Act Regulations* (the *Fisheries Act* Applications Regulations) prescribe information requirements and documentation for all applications for authorizations made under paragraph 35(2)(*b*) of the *Fisheries Act* to the Minister of Fisheries and Oceans, and establish the procedural requirements and time limits for processing these applications.

The *Canadian Environmental Assessment Act, 2012* (CEAA 2012) came into force on July 6, 2012 and changed DFO's responsibilities with respect to environmental assessments

[11]Projects Near Water website: http://www.dfo-mpo.gc.ca/pnw-ppe/index-eng.html.

(EAs). A paragraph 35(2)(*b*) *Fisheries Act* authorization for projects on federal lands cannot be issued unless it is determined that the carrying out of the project is not likely to cause significant adverse environmental effects or that the carrying out of the project is likely to cause significant adverse environmental effects and the Governor in Council decides that those effects are justified.

Under CEAA 2012, DFO may be requested to provide specialist or expert information and knowledge to a responsible authority, a review panel or a province for which its EA process has been deemed a substitute for the EA process under CEAA 2012. Upon request, DFO is required to provide its specialist advice on fish and/or fish habitat, or on aquatic species at risk. These reviews focus largely on metal mining, oil and gas facilities and pipelines, and hydroelectric and nuclear energy projects.

The Minister of Fisheries and Oceans has decision-making responsibilities in relation to the assessment of projects under the *Mackenzie Valley Resource Management Act*, *Yukon Environmental and Socio-economic Assessment Act*, and some other environmental assessment regimes established under land claims agreements when DFO has jurisdictional responsibilities in relation to these projects. The administration of a paragraph 35(2)(*b*) *Fisheries Act* authorization is the exercise of jurisdictional responsibilities in relation to a project. Similar to FPP's federal authority role when requested under CEAA 2012, FPP also provides specialist or expert advice in relation to the areas of fish, fish habitat and aquatic species at risk to the independent boards or panels established to conduct the EAs in Canada's north.

DFO also provides advice and support to Environment Canada and custodian departments concerning the impacts on fish habitats from federal contaminated sites through the Federal Contaminated Sites Action Plan (FCSAP) program.

2.4.1 Review of Development Proposals (Referrals)

This section presents data recorded in the Program Activity Tracking System for Habitat (PATH) on review of referrals.

Table 1 presents summary data on the number of referrals in 2013-2014 (prior to Nov. 25th, 2013) by work category for each DFO region. Table 2 presents summary data on the number of referrals in 2013-2014 (since Nov. 25th, 2013) by primary impact for each DFO region. Table 3 presents summary data on the number of referrals in 2013-2014 by region, while Figure 1 illustrates the regional distribution of total referrals for 2013-2014.

Table 1:
Summary of Referrals by Work Category
Fiscal Year 2013-2014 (prior to Nov. 25th, 2013; ~8 months)[12]

Region	Work Categories														
	Aquaculture	Contaminated Site Remediation	Control of Nuisance Species	Dredging	Fish Offal Disposal	Habitat Improvement	In-stream Works	Log Handling	Mineral Aggregate & Oil & Gas Extraction	Shore-line Works	Structures in Water	Water Management	Water-course Crossing	Other[13]	Total
Newfoundland and Labrador	0	0	0	9	0	1	8	0	24	26	52	12	73	54	**259**
Maritimes	10	1	0	32	0	4	22	1	4	52	59	32	169	19	**405**
Gulf	7	0	0	16	0	27	21	0	1	23	20	12	59	9	**195**
Quebec	0	1	0	6	2	0	10	0	4	20	30	4	34	2	**113**
Central and Arctic	0	4	2	76	0	3	444	0	41	188	71	56	377	42	**1,304**
Pacific	0	3	0	9	0	12	64	5	27	83	37	21	75	8	**344**
Total	**17**	**9**	**2**	**148**	**2**	**47**	**569**	**6**	**101**	**392**	**269**	**137**	**787**	**134**	**2,620**

[12]Note: For reporting purposes, the receipt of a referral by DFO is accounted for in the statistics of the same year that event actually occurred, while any DFO decisions linked to the referral could occur in a subsequent year and be accounted for separately in the statistics for that year.
[13]"Other" includes referrals identified with the work categories of "To be determined" and "Other".

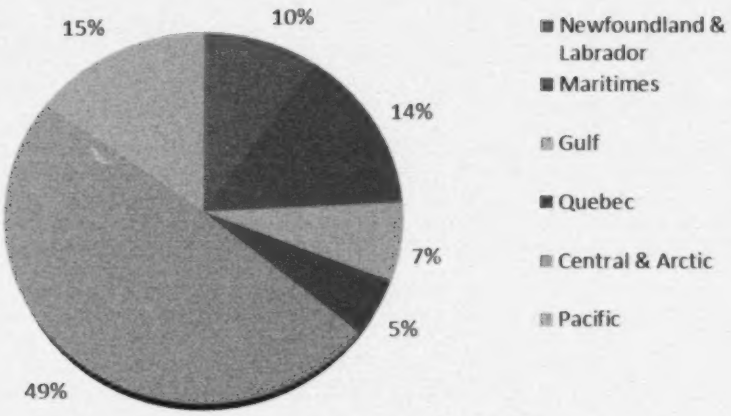
Table 2:
Summary of Referrals by Primary Impact
Fiscal Year 2013-2014 (since Nov. 25th, 2013; ~4 months)[14]

Region	Primary Impact									
	Changes in Flows/ Water Levels	Deposition of Non-Deleterious Substances	Dredging/ Excavating	Fish Mortality	Fish Passage	Infilling/ Footprint	Watercourse Alteration	No Potential Impact	Other[15]	Total
Newfoundland and Labrador	2	2	4	2	9	34	1	42	11	**107**
Maritimes	8	0	4	1	69	35	0	6	10	**133**
Gulf	2	0	8	0	13	17	7	10	4	**61**
Quebec	0	8	16	0	4	36	4	4	2	**74**
Central and Arctic	17	1	147	0	11	230	30	81	11	**528**
Pacific	4	10	26	1	7	85	47	25	12	**217**
Total	**33**	**21**	**205**	**4**	**113**	**437**	**89**	**168**	**50**	**1,120**

[14]Note: For reporting purposes, the receipt of a referral by DFO is accounted for in the statistics of the same year that event actually occurred, while any DFO decisions linked to the referral could occur in a subsequent year and be accounted for separately in the statistics for that year.
[15]"Other" includes referrals identified with the primary impact of "To be determined".

Table 3: Summary of Referrals by Region Fiscal Year 2013-2014[16]	
Region	**Total**
Newfoundland and Labrador	366
Maritimes	538
Gulf	256
Quebec	187
Central and Arctic	1,832
Pacific	561
Total	**3,740**

Figure 1: Percent of Referrals by Region, 2013-2014[16]



[16]Note: For reporting purposes, the receipt of a referral by DFO is accounted for in the statistics of the same year that event actually occurred, while any DFO decisions linked to the referral could occur in a subsequent year and be accounted for separately in the statistics for that year.

2.4.2 Advice Provided and Authorizations Issued

Since Nov. 25th 2013, when the new *Fisheries Act* Applications Regulations came into force, compliance with the time limits by which the Minister must abide when processing applications for authorization was 100% for both the 60 and 90 day time limits.

Data recorded in PATH on advice provided and authorizations issued by DFO regions are presented below in Table 4 (prior to Nov. 25th, 2013), Table 5 (since Nov. 25th, 2013), and Table 6 (all of fiscal year 2013-2014).

Figure 2 and Figure 3 illustrate the regional distribution of total advice provided and authorizations issued, respectively, for 2013-2014.

Table 4:
Advice Provided and Authorizations Issued
Fiscal Year 2013-2014 (prior to Nov. 25th, 2013; ~8 months)

Region	Advice Provided to Proponent or Others[17]	Authorizations Issued	Total
Newfoundland and Labrador	233	3	**236**
Maritimes	398	18	**416**
Gulf[18]	195	8	**203**
Quebec	232	18	**250**
Central and Arctic	735	40	**775**
Pacific	322	45	**367**
Total	**2,115**	**132**	**2,247**

[17] Advice provided to others includes written advice to federal agencies, provincial/territorial/other agencies, letters of advice to proponents, operational statements, and mitigation measures provided to permitting agencies.

[18] In the Gulf Region, as a result of an agreement with the Province of New Brunswick, DFO does not need to provide operational statements for streamlining certain activities.

Table 5:
Advice Provided and Authorizations Issued
Fiscal Year 2013-2014 (since Nov. 25th, 2013; ~4 months)

Region	Advice Provided to Proponent or Others[19]	Authorizations Issued	Total
Newfoundland and Labrador	30	1	**31**
Maritimes	32	2	**34**
Gulf	33	0	**33**
Quebec	81	3	**84**
Central and Arctic	165	9	**174**
Pacific	68	2	**70**
Total	**409**	**17**	**426**

Table 6:
Advice Provided and Authorizations Issued
Fiscal Year 2013-2014[20]

Region	Advice Provided to Proponent or Others[19]	Authorizations Issued	Total
Newfoundland and Labrador	263	4	**267**
Maritimes	430	20	**450**
Gulf	228	8	**236**
Quebec	313	21	**334**
Central and Arctic	900	49	**949**
Pacific	390	47	**437**
Total	**2,524**	**149**	**2,673**

[19]Advice provided to others includes written advice to federal agencies, provincial/territorial/other agencies, letters of advice to proponents, operational statements, and mitigation measures provided to permitting agencies.

[20]Note: For reporting purposes, the receipt of a referral by DFO is accounted for in the statistics of the same year that event actually occurred, while any DFO decisions, including advice provided and authorization issued, linked to the referral could occur in a subsequent year and be accounted for separately in the statistics for that year.

Figure 2: Percent of Advice Provided by Region, 2013-2014[21]

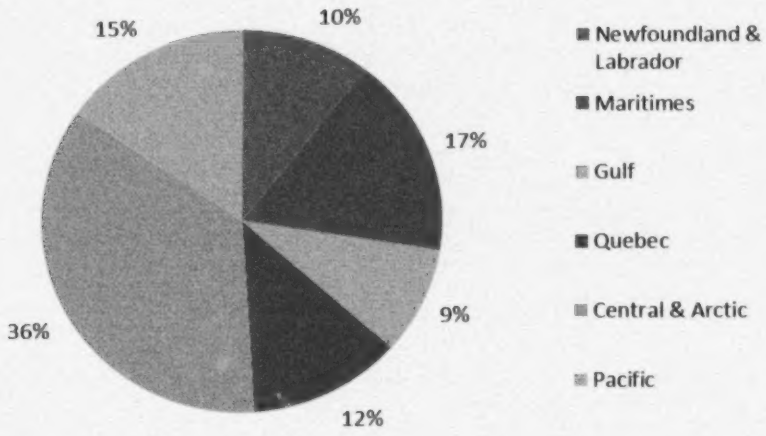
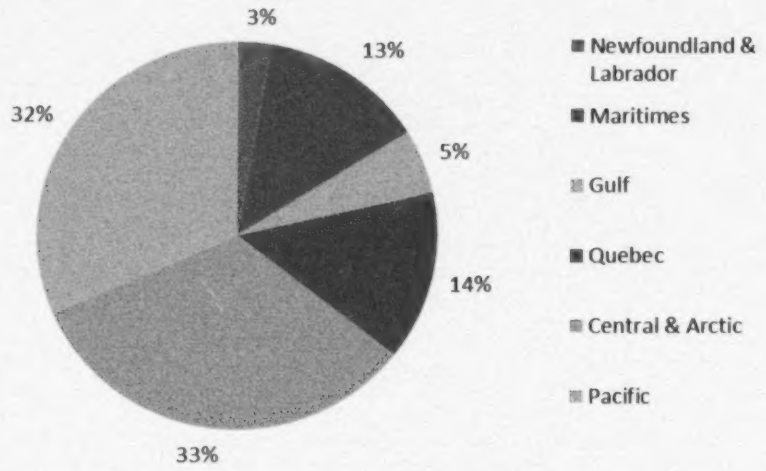


Figure 3: Percent of Authorizations Issued by Region, 2013-2014[22]



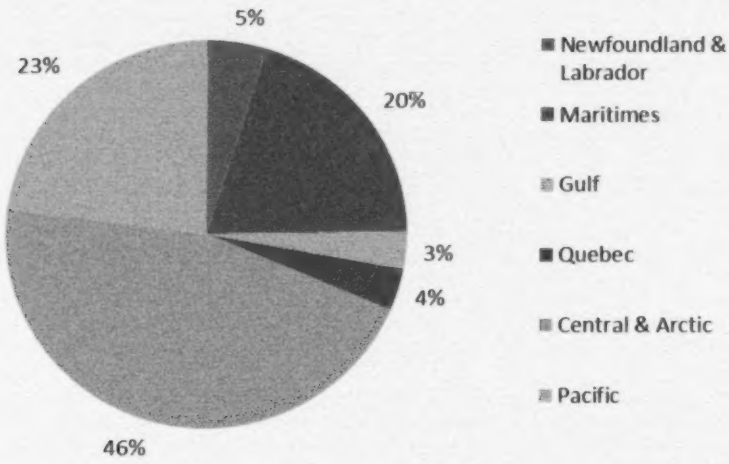
[21]The advice provided includes providing operational statements (following receipt of referral).
[22]Notifications of use of class authorizations are not included in this figure.

Table 7 presents summary data on the number of program responses provided in 2013-2014 by region. Figure 4 illustrates the regional distribution of program response provided by region since November 25th, 2013.

Table 7:
Program Response Provided
Fiscal Year 2013-2014
(since Nov. 25th, 2013; ~4 months)

Region	Responses Provided[23]
Newfoundland and Labrador	23
Maritimes	97
Gulf	15
Quebec	17
Central and Arctic	221
Pacific	111
Total	**484**

Figure 4: Percent of Program Response Provided by Region since Nov. 25th, 2013; ~4 months[23]



[23]Program responses provided through triage and other processes include best management practices, no concerns/no potential effect to fish or fish habitat, partnership/other process in place, web self-assessment can be used, regulatory review not required, no specialist advice to provide.

2.4.3 Notifications and Use of Regulatory Tools

As per section 2.4 of this report, referrals are requests submitted to DFO either directly by a proponent or indirectly by a consultant, province or territory, or other agency with respect to a proposed work, undertaking or activity that may affect fish, fish habitat or fisheries. Because of the scope and number of projects possibly affecting fish, fish habitat or fisheries, various "tools" are in place to improve efficiency and effectiveness of regulatory reviews for low-risk activities.

For example, *"class" authorizations* provide a standardized process for agricultural municipal drains maintenance activities in southern Ontario. The issuance of authorizations under this "class" for pre-defined drain maintenance activities eliminates the requirement for a site-specific review process.

Operational statements, prior to November 25, 2013, provided generic guidance and specify mitigation measures needed to avoid harm to fish habitat. Proponents incorporating measures outlined in an operational statement complied with the Act and therefore did not need to submit a request for a site-specific project review.

On November 25, 2013, a new online proponent self-assessment process was launched on the Projects Near Water website, which identifies activity and water body types for which a DFO review is not required, provided the Measures to Avoid Causing Harm to Fish and Fish Habitat can be followed. The Measures to Avoid Causing Harm to Fish and Fish Habitat incorporate previous guidance provided in operational statements and outline general measures for preventing serious harm to fish. The self-assessment tool enables proponents to plan their projects to avoid harm, and to determine the need for a DFO review in advance of submitting their project, allowing the Department to focus the review process on the highest risk projects for which site-specific review and advice is most beneficial.

In certain jurisdictions, DFO has arrangements with provincial governments where they provide project reviews and advice for certain types of projects. Examples of such regional regulatory arrangements are the Maritimes and Gulf regions' *Guidelined Works* processes, where the provincial review process for specified low-risk activities incorporates DFO regulatory requirements.

Tables 8-10 exhibit quantitative information for the class authorizations and the operational statements. The class authorizations are tracked and reported because they authorize a HADD of fish habitat or killing of fish by means other than fishing or serious harm to fish. They are in addition to the project-specific authorizations reported in Tables 4-6. Not all of the other "streamlining" tools mentioned above have notification processes and tracking is not a mandatory requirement for those that do. It should be noted that in the case of the Maritimes and Gulf regions, the Guidelined Works processes with the provinces preceded the implementation of, and are analogous to, the national operational statement process, and therefore those regions did not use the operational statements prior to November 25, 2013 as shown in Table 8.

Table 8 (prior to Nov. 25th, 2013), Table 9 (since Nov. 25th, 2013), and Table 10 (all of fiscal year 2013-2014) provide summaries of notifications of the use of class authorizations and operational statements in fiscal year 2013-2014.

Table 8:
Notifications of Use of Class Authorizations and Operational Statements
Fiscal Year 2013-2014 (prior to Nov. 25th, 2013; ~8 months)

Region	Class Authorizations Notifications	Operational Statements Notifications	Total
Newfoundland and Labrador	0	23	**23**
Maritimes	0	0	**0**
Gulf	0	2	**2**
Quebec	0	18	**18**
Central and Arctic	233	1,032	**1,265**
Pacific	30	297	**327**
Total	**263**	**1,372**	**1,635**

Table 9:
Notifications of Use of Class Authorizations
Fiscal Year 2013-2014 (since Nov. 25th, 2013; ~4 months)

Region	Class Authorizations Notifications
Newfoundland and Labrador	0
Maritimes	0
Gulf	0
Quebec	0
Central and Arctic	46
Pacific	7
Total	**53**

Table 10: Notifications of Use of Class Authorizations and Operational Statements Fiscal Year 2013-2014			
Region	**Class Authorizations Notifications**	**Operational Statements Notifications**	**Total**
Newfoundland and Labrador	0	23	**23**
Maritimes	0	0	**0**
Gulf	0	2	**2**
Quebec	0	18	**18**
Central and Arctic	279	1,032	**1,311**
Pacific	37	297	**334**
Total	**316**	**1,372**	**1,688**

2.5 Compliance and Enforcement of the Fish Habitat/Fisheries Protection Provisions of the *Fisheries Act*

DFO's C&P Directorate is responsible for monitoring compliance with legislation and regulations regarding the conservation of fisheries resources and fisheries habitat. The Minister of Fisheries and Oceans appoints fishery officers to enforce fisheries regulations and management plans as well as the fish habitat/fisheries provisions of the *Fisheries Act*.

Fishery officers conduct at-sea patrols in coastal and inshore areas, monitor catches, conduct forensic investigations and audits, conduct inland patrols and provide information to fishers regarding government policies and regulations. The compliance and enforcement monitoring activities of fishery officers are key to protecting Canada's fish and fish habitat.

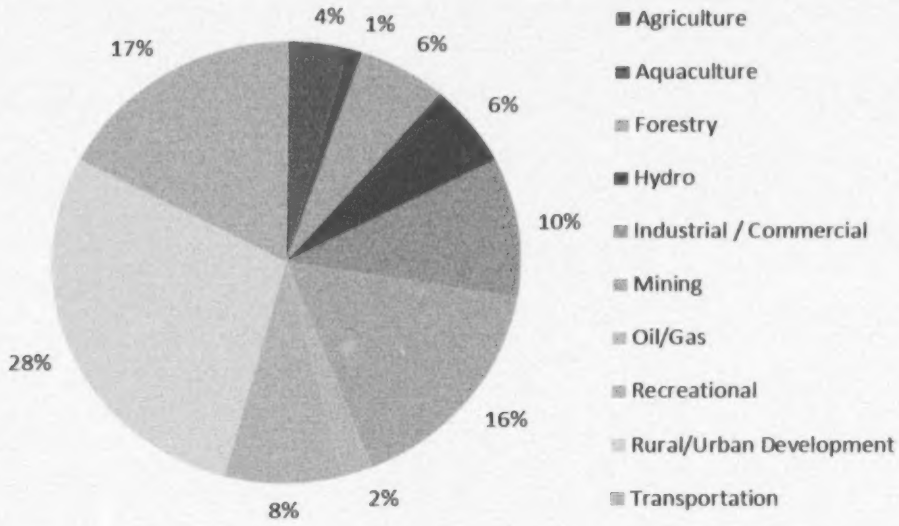
The C&P Directorate has adopted a three-pillar approach to the delivery of its enforcement program to address existing challenges and to integrate intradepartmental compliance issues in a comprehensive compliance program. This approach, as described under the DFO National Compliance Framework, guides the application of compliance tools organized into three pillars of compliance management. Pillar I activities, under the heading "*Education and Shared Stewardship*", include informal and formal education programs and co-management/ partnership agreements. Pillar II, titled "*Monitoring, Control and Surveillance*", include activities such as land, sea and air patrols; inspections and compliance monitoring of third-party service providers; and enforcement response to non-compliance. Pillar III, titled "*Major Cases/Special Investigations*" include formal intelligence gathering and analysis, forensic audits and prosecutions.

For fiscal year 2013-2014, fishery officers dedicated a total of 11,075 hours to fish habitat/fisheries protection compliance and enforcement activities. The effort and time spent

on fish habitat/fisheries protection compliance, identified as a single work element, represents 2.2% of the total amount of time fishery officers dedicated to all work elements combined.

Figure 5 illustrates the pattern in the allocation of compliance effort by fish habitat/fisheries protection activities in fiscal year 2013-2014.

Figure 5: Allocation of Compliance Effort, 2013-2014



Data for Figure 5:

Main Activity	Hours	Percentage
Agriculture	491	4
Aquaculture	69	1
Forestry	714	6
Hydro	714	6
Industrial/Commercial	1,157	10
Mining	1,823	16
Oil/Gas	214	2
Recreational	929	8
Rural/Urban Development	3,057	28
Transportation	1,907	17
Total	**11,075**	**100**

Table 11 and Table 12 summarize C&P's fish habitat/fisheries enforcement activities by region in fiscal year 2013-2014.

Table 11:
Summary of DFO Fish Habitat/Fisheries Enforcement Activities
Fiscal Year 2013-2014

Region	Warnings Issued	Inspector's Direction	Charges Laid	Alternative to Prosecution*
Newfoundland and Labrador	4	0	2	0
Maritimes	2	12	0	0
Gulf	0	0	0	0
Quebec	2	0	0	0
Central and Arctic	0	2	0	0
Pacific	38	6	0	6
Total	**46**	**20**	**2**	**6**

**Alternatives to prosecution include out-of-court settlements aimed at restoring unauthorized HADD of fish habitat/serious harm to fish in a timely manner.*

Table 12:
Convictions Reported under the Fish Habitat/Fisheries Protection and Pollution Prevention Provisions of the *Fisheries Act*
Fiscal Year 2013-2014

Region	Section 35(1)	Section 36(3)
Newfoundland and Labrador	0	0
Maritimes	0	0
Gulf	0	0
Quebec	0	0
Central and Arctic	2	2
Pacific	1	0
Total	**3**	**2**

2.6 Support of Ecosystems and Oceans Science Sector

DFO's Ecosystems and Oceans Science Sector conducts research and provides scientific advice to assist FPP practitioners. In collaboration with the FPP, environmental scientists identify knowledge gaps related to habitat management, conservation, restoration and improvement, and devise research projects to address those gaps. Some of the research products and scientific advice provided in fiscal 2013-2014 included:

- Assessing the effectiveness of fish habitat offsetting activities in Canada, including monitoring design and metrics;
- Providing scientific advice to support the development of a Fisheries Protection Policy for Canada, including advice on how to offset harm to fish;
- Reviewing Environmental Assessment reports related to seismic testing for oil and gas exploration on the East Coast;
- Reviews of predicted effects on fish, fish habitat, and fisheries of proposed mine developments in British Columbia;
- Review of an exploratory drilling program Environmental Assessment in the St. Lawrence estuary;
- Technical review of the Environmental Impact Statement for a proposed hydroelectric development in British Columbia;
- Assessment of the impact of a geophysical survey on St. Lawrence beluga; and
- Provision of information to support environmental impact assessments on the impacts of shipping on aquatic environments.

Research results are transferred to FPP staff in the form of peer-reviewed scientific advice, scientific workshops, published reports, fact sheets, briefings, and personal consultations. Information provided can range from informal, one-on-one discussions, to regional peer-reviewed advice sessions and large-scale National Advisory Process workshops that follow a formal process to produce peer-reviewed, published advisory documents. DFO's Canadian Science Advisory Secretariat (CSAS) within the Ecosystems and Oceans Science Sector oversees the provision of formal scientific advice, and maintains a website (http://www.dfo-mpo.gc.ca/csas-sccs/index-eng.htm) where published reports are made available to the Canadian public.

3.0 Administration and Enforcement of the Pollution Prevention Provisions of the *Fisheries Act*

In 1978, the Minister of the Environment was given the lead responsibility for the administration of the pollution prevention provisions of the *Fisheries Act*. These responsibilities were formalized by the *Order Designating the Minister of the Environment as the Minister Responsible for the Administration and Enforcement of Subsections 36(3) to (6) of the Fisheries Act* published in the *Canada Gazette,* Part II, on March 12, 2014 (hereafter referred to as the "Designation Order"). As a result, the Minister of the Environment is now legally responsible for the administration and enforcement of subsections 36(3) to (6) of the Act for all purposes and subject matters, except the following, which remain the responsibility of the Minister of Fisheries and Oceans:

- the construction, operation, modification and decommissioning of, and other activity in relation to, an aquaculture facility, and any resulting effects of those activities on the waters frequented by fish; and
- the control or eradication of any aquatic invasive species or aquatic species that constitute a pest to the fisheries.

A key provision of the pollution prevention requirements of the *Fisheries Act* is subsection 36(3), which prohibits the deposit of deleterious substances in water frequented by fish, unless the deposit is authorized by regulations under the Act or other federal legislation. Deleterious substances include any substance that, if added to water, would degrade, alter, or form part of a process of degradation or alteration of the quality of water so that it is rendered deleterious to fish or fish habitat or for human consumption of any fish from that water.

Environment Canada administers the pollution prevention provisions through a suite of activities including compliance promotion, regulations, environmental effects monitoring (EEM), water quality monitoring, enforcement, emergencies management and administrative agreements. The Department's 2013-2014 activities may be summarized as follows:

- Development and publication in *Canada Gazette*, Part II of the Designation Order establishing the Minister of the Environment responsible for subsections 36(3) to (6) of the Act;[24]
- Development and publication in *Canada Gazette,* Part I of new regulations under subsection 36(5.1), which proposed conditions under which the Minister may authorize the deposit of deleterious substances via Ministerial Regulations;[24]
- Development and publication in *Canada Gazette*, Part I of new regulations under subsection 36(5.2), which proposed to authorize the deposit of deleterious substances in the Experimental Lakes Area;
- Administration, compliance promotion and enforcement for existing regulations under subsection 36(5) for the pulp and paper sector and for metal mines, including the EEM elements of those regulations;

[24]This was undertaken jointly with DFO.

- Administration, compliance promotion and enforcement of the *Wastewater Systems Effluent Regulations* under subsection 36(5) for the wastewater sector (including federal, provincial, municipal and First Nations wastewater systems);
- Development and publication in *Canada Gazette*, Part I of a new proposed administrative agreement with New Brunswick for the *Wastewater Systems Effluent Regulations* further to subsection 4.1(4);
- Contributing to environmental emergency management activities by managing Environment Canada's pollution incident notification system and undertaking response actions to significant pollution incidents related to the deposit of deleterious substances not authorized under the Act, as per subsections 38(5) and 38(7);
- Conducting water quality monitoring under the Canadian Shellfish Sanitation Program;
- Implementation of administrative and notification agreements with provinces that support effective administration of the pollution prevention provisions and associated regulations;
- Conducting general ongoing reviews and improvements to the administration and enforcement of the pollution prevention provisions; and
- Performing compliance promotion to support subsection 36(3), which prohibits the deposit of deleterious substances to waters frequented by fish unless authorized by regulation and to support notification in the event of an unauthorized deposit as required by subsection 38(5) (this subsection was previously number 38(4)).

3.1 General Reviews and Improvements

In 2012, as part of the *Jobs, Growth and Long-Term Prosperity Act*, a number of amendments were made to the *Fisheries Act*. However, the scope of the subsection 36(3) prohibition, for which Environment Canada is now primarily responsible, did not change and the prohibition continues to apply to all waters frequented by fish. The key 2012 amendments that relate to improvements for section 36 are as follows:

- Equivalency Agreements: A new provision, section 4.1, provides authority for entering into equivalency agreements with provinces where provisions under the laws of a province are deemed equivalent in effect to provisions of a regulation under the *Fisheries Act*. Equivalency agreements can reduce duplication of effort and oversight by multiple levels of government insofar as the federal regulation stands down in the province engaged by such an agreement.
- Enable Use of Ministerial Regulations: A new provision, subsection 36(5.1), enables the Minister, under certain conditions established by the Governor in Council, to authorize, by regulations under subsection 36(5.2), certain deposits of deleterious substances.
- Designation of Authorities: A new provision, section 43.2(1), provides authority for the Governor in Council, on the recommendation of the Minister, to designate by order, another Minister as responsible for the administration and enforcement of subsections 36(3) to (6) of the *Fisheries Act* for the purposes and in relation to the subject-matters set out in the order.
- Conditions for Regulating: An amendment to subsection 36(4) removed the requirement that regulations authorizing deposits must set out conditions with respect to the quantity or concentration of the deleterious substance to be deposited.

In 2013-2014, Environment Canada and Fisheries and Oceans Canada made progress toward implementing the 2012 changes to the *Fisheries Act*. The departments worked collaboratively to publish the *Regulations Establishing Conditions for Making Regulations Under Subsection 36(5.2) of the Fisheries Act* in *Canada Gazette*, Part I in February 2014. The proposed regulations set out the authority for the Minister of the Environment and Minister of Fisheries and Oceans to authorize deposits under certain conditions. Environment Canada also published the proposed *Experimental Lakes Area Research Activities Regulations* in *Canada Gazette*, Part I in February 2014, which set out the conditions to authorize deposits in the Experimental Lakes Area for the sole purpose of research activities.

Environment Canada and Fisheries and Oceans Canada have also seen their respective roles and responsibilities for the pollution prevention provisions set in law through the making of the Designation Order, published in *Canada Gazette*, Part II on March 12, 2014. The Designation Order formalizes and delineates responsibilities of the Minister of the Environment and the Minister of Fisheries and Oceans under subsections 36(3) to (6) of the Act. In addition, to support the implementation of the Designation Order, Environment Canada and Fisheries and Oceans Canada are renewing the Memorandum of Understanding concerning the administration and enforcement of the pollution prevention provisions between the two departments.

The changes outlined above will support the ongoing implementation of recommendations stemming from the May 2009 Commissioner of the Environment and Sustainable Development (CESD) review of the federal government's activities under the *Fisheries Act* to protect fish habitat, including improving Environment Canada's administration and enforcement of the pollution prevention provisions. In particular, these recommendations included the need to set out clearer objectives, results, expectations and accountabilities to improve Environment Canada's risk-based approach to assess and address the risks of non-compliance with the *Fisheries Act* pollution prevention provisions, to review older regulations and guidelines, to improve enforcement quality assurance and for Fisheries and Oceans Canada and Environment Canada to work together to more clearly establish expectations with respect to administration of the pollution prevention provisions.

In 2013-2014, Environment Canada and Fisheries and Oceans Canada have made progress toward the commitments it made in response to these 2009 CESD recommendations and further progress has been facilitated by the changes to the Act in 2012. Environment Canada has developed a Performance Management Strategy for the pollution prevention provisions, is exploring ways to improve its risk-based approach and is reviewing a number of older regulations and guidelines. Dedicated resources remain in place for enforcement quality assurance.

3.2 Compliance Promotion for General Prohibition of Releases of Deleterious Substances to Waters Frequented by Fish

Compliance promotion relates to the planned activities that increase the awareness and understanding of regulatees with respect to the *Fisheries Act* and related regulations. Through these activities, information is provided on what is required to comply, the benefits of complying with the law as well as the consequences of non-compliance.

The approach to compliance promotion is collaborative and coordinated across the department's programs, regions and with enforcement. It is achieved using various tools and approaches such as website postings, letters, emails, brochures, site visits, responses to inquiries and information sessions.

Environment Canada continues to focus compliance promotion efforts on geographically dispersed, small and medium-sized enterprises (SMEs), First Nations, and the Federal House. The Department defines SMEs as businesses with less than 500 employees and/or businesses with a lower capacity to obtain and/or understand regulatory compliance requirements. SMEs often have fewer resources and a greater need for assistance regarding how to comply with the Department's regulations. The Federal House consists of all federal government departments and agencies in Canada.

In 2013-2014, Environment Canada undertook compliance promotion activities relating to the general pollution prevention provisions, identified in subsection 36(3) and section 38 of the *Fisheries Act*, across the country for a number of sectors. This included conducting over 80 compliance promotion activities reaching 52 different facilities. These activities included

group meetings, phone calls and emails. Environment Canada undertakes compliance promotion primarily through the environmental assessment process (by making organizations aware of their regulatory requirements when they submit their projects for an environmental assessment), as a result of enforcement activities, and in response to specific inquiries.

- The passing of the *Canadian Environmental Assessment Act, 2012* (CEAA 2012) changed the federal environmental assessment regime beginning in the 2012-2013 fiscal year. CEAA 2012 applies to large-scale projects defined in regulation, which greatly reduced the number of assessments undertaken under that legislation to focus on those with the greatest potential for environmental impact. Environment Canada undertook reviews of environmental assessment proposals for over 100 projects, including transitional screenings, comprehensive studies and panel reviews. Reviews were used to identify issues related to *Fisheries Act* pollution prevention provisions and related regulations, and encouraged regulatees, through proactive planning of their projects, to ensure that they would meet all regulatory requirements. These reviews focused largely on metal mining, oil and gas facilities and pipelines, and hydro-electric and nuclear energy projects.
- Environment Canada provided scientific and technical advice related to federal contaminated sites and potential *Fisheries Act* pollution prevention provisions implications through various avenues including the Federal Contaminated Sites Action Plan (FCSAP) and environmental assessments.

3.3 Regulations

3.3.1 Pulp and Paper

Environment Canada's analysis of the effluent data generated during 2012[25] by Canadian pulp and paper mills and off-site treatment facilities concluded that these facilities continued to have high rates of compliance with the effluent quality limits prescribed in the *Pulp and Paper Effluent Regulations* (PPER). Across the country in 2012, the regulations applied to 92 pulp and paper mills. Compliance rates were over 99% for total suspended solids and biochemical oxygen demand, 98.3% for the requirement that effluent be non-acutely lethal to rainbow trout and approximately 94% for the EEM requirements (FY 2013-2014).

Environment Canada continued to provide guidance and advice to the pulp and paper sector on the EEM requirements under the PPER. A national assessment of the pulp and paper mills using EEM data as of 2010 (i.e., cycles 1 to 5) was posted on the Environment Canada website in February 2013. Environment Canada presented the findings of this national assessment to stakeholders in May 2012 at the Forest Products Association of Canada Science Committee. An update on preliminary results from monitoring undertaken

[25]Reporting data for the *Pulp and Paper Effluent Regulations* (PPER) are submitted through one of four electronic- and/or paper-based systems across Canada, depending upon which province a given mill is located. The most recent year for which data have been pooled, tabulated and analyzed at an aggregate level is 2012.

between 2010 and 2013 (i.e., cycle 6) was also presented to the Forest Products Association of Canada Science Committee in February 2013.

To promote compliance with regulations under the *Fisheries Act*, Environment Canada continued to provide information to the pulp and paper sector respecting the requirements of the PPER. Compliance promotion activities included sending emails and letters to regulatees and continued support for the electronic reporting of data through the Regulatory Information Submission System (RISS) for pulp and paper mills. The information system is a web-based reporting tool used by industry to report mandatory data as required under the PPER.

3.3.2 Metal Mines

Environment Canada's analysis of the effluent data generated during 2012[26] by Canadian metal mines showed that these companies continued to have high rates of compliance with the effluent quality limits prescribed in the *Metal Mining Effluent Regulations* (MMER). The regulations applied to 117 mining facilities across the country in 2012, and the compliance rate with the limit for lead was 100%, over 99% for arsenic, copper, nickel, zinc, radium 226 and pH, 98.6% for cyanide, and 96.3 % for total suspended solids. The regulations also require that effluent be non-acutely lethal to rainbow trout, and in 2012, the compliance rate for this requirement was 98.8%. The compliance rate for EEM requirements during FY 2013-2014 was approximately 88%.

Since December 2012, Environment Canada has been conducting stakeholder consultations on the 10-year review of the MMER. In addition to reviewing the requirements for metal mines, the MMER review is considering the possible inclusion of coal and diamond mines. The MMER review is currently ongoing.

Environment Canada continues to provide information to the metal mining sector on the EEM program required under the MMER. The national assessment of the EEM data from the monitoring period covering 2007 to 2009 (i.e., the second phase) was posted on the Environment Canada website in May 2012. A summary of EEM study results for the period covered by the national assessment was presented to scientists and mining stakeholders by Environment Canada at the Aquatic Toxicity Workshop in British Columbia (September 2012).

The Department delivered compliance promotion activities by speaking with several mining companies across Canada in person or by telephone/conference call to explain the MMER's requirements. Mining companies' main questions related to how to prepare the assessment of alternatives when preparing proposals to use natural water bodies for the purposes of disposing of mine waste. The assessment of alternatives is a pre-requisite for moving forward with proposed amendments to Schedule 2 of the MMER, which lists tailings impoundment areas. Environment Canada explained how to prepare the report and provided support to regulatees by commenting on their reports.

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[26] The most recent year for which data have been pooled, tabulated and analyzed at an aggregate level is 2012.

Fisheries and Oceans Canada continues to assist Environment Canada by providing expertise, as needed, on fish and fish habitat and in evaluating and administering compensation plans submitted under section 27.1 of the *Metal Mining Effluent Regulations*.

3.3.3 Notification

In the event of an unauthorized deposit such as an oil or chemical spill, federal and provincial/territorial authorities need to be notified in order to coordinate an adequate oversight of the response. The *Deposit Out of the Normal Course of Events Notification Regulations* apply to verbal notification requirements for unauthorized releases of deleterious substance for the purpose of subsection 38(5) of the *Fisheries Act*. In order to reduce notification burden, and duplication of effort, these regulations provide the regulated community and the public with the name and telephone number of the 24-hour authorities operating for the respective province or territory to which notifications are to be made. This means that for incidents that trigger the notification regulations, the polluter need only call one, well-known provincial or territorial number. The 24-hour operating centre that received the call then transfers the information to Environment Canada to enable timely and effective oversight and the possible provision of scientific support if necessary.

Compliance promotion activities included the provision of information to the regulated community through Environment Canada's Environmental Emergencies Program website, and the coordination of messaging through other compliance promotion activities related to other regulations under the *Fisheries Act*.

3.3.4 Wastewater

The *Wastewater Systems Effluent Regulations* (WSER) came into force in July 2012. The WSER are expected to apply to approximately 2,550 wastewater systems. At the time of this report, owners and operators of 1,400 wastewater systems had identified themselves through the mandatory regulatory reporting. Further development of the online reporting system for the submission of wastewater regulatory information and applications for authorizations was undertaken. Discussions with provinces and territories on the development of agreements to reduce regulatory duplication for the wastewater sector were ongoing. More information on the status of agreements for the WSER can be found in section 3.7 of this Report.

In 2013-2014, Environment Canada continued to raise the awareness and understanding of regulatees by focusing compliance promotion activities on informing owners and operators of wastewater systems of the regulatory requirements that came into force in 2013, such as the requirements to monitor the quality and quantity of effluent deposited and to submit identification and effluent monitoring reports. These activities included webinars, email/fax campaigns, answering questions received through phone calls and emails, presenting at conferences, workshops and meetings, direct phone campaigns and, in some cases, working with provincial/territorial partners and wastewater and municipal associations. As well, Environment Canada provided support to regulatees to assist them in registering and

completing regulatory reports using Environment Canada's Single Window Information Manager and the Effluent Regulatory Reporting Information System.

Environment Canada maintained close working relationships with First Nations. Workshops, information sessions, conferences, compliance promotion materials, reporting reminders, webinars and phone call campaigns were delivered to First Nations groups and individuals throughout Canada to increase awareness of their obligations to comply with the WSER. The Department organized various multi-instrument workshops across Canada where First Nations stakeholders were able to learn about the WSER in addition to other federal regulations. One of the workshops was so successful that many First Nations completed their identification reports on site right after the presentations. The Department's strong relationships with other departments and organizations explains the successes in the Atlantic and Pacific and Yukon regions where 100% of the wastewater systems' owners/operators have submitted their identification reports while 76% in Atlantic and 80% in Pacific Yukon have submitted their monitoring reports.

3.4 Water Quality Monitoring – Canadian Shellfish Sanitation Program

Under the Canadian Shellfish Sanitation Program (CSSP), Environment Canada surveys bivalve molluscan shellfish growing areas for the purposes of classifying areas for the harvesting of species such as clams, oysters, mussels and scallops. Environment Canada makes growing area classification recommendations to Fisheries and Oceans Canada (as does, separately, the Canadian Food Inspection Agency pursuant to its responsibilities under the CSSP Memorandum of Understanding). Based on the recommendations from Environment Canada and the Canadian Food Inspection Agency, Fisheries and Oceans Canada will, through its authority under the *Management of Contaminated Fisheries Regulations*, implement closures and openings of the harvesting of shellfish. In 2013-2014, approximately 28,800 marine water quality samples were collected by Environment Canada to support shellfish harvest area classification along the coastlines of the Atlantic, Pacific and Quebec (St. Lawrence Estuary) regions of Canada.

In addition to temporary closures as a result of unpredicted spills, Environment Canada continues to redefine established classifications of harvesting areas in the immediate vicinity to wastewater treatment plants. Environment Canada has adopted a world-leading, three-dimensional hydrodynamic modeling technology to support its wastewater treatment plant assessment work. In 2013-2014, a total of 26 comprehensive wastewater treatment plants assessments were completed resulting in revised harvesting limits for some locations.

In 2013-2014, approximately 2,900 reported spills, including unplanned discharges from wastewater treatment plants and their associated collection systems, were also assessed for potential impacts to shellfish areas. Environment Canada and its CSSP partners continued work in 2013-2014 to build the awareness of wastewater treatment plant operators about the importance of timely reporting pursuant to section 38(5) of the *Fisheries Act*, which contributes to protecting the public from the consumption of contaminated shellfish.

3.5 Enforcement Activities and Measures

3.5.1 Summary of Enforcement Activities

Table 13 summarizes the number of inspections, investigations and enforcement measures carried out under the *Fisheries Act* pollution prevention provisions by Environment Canada in 2013-2014.The following explanations should be noted with respect to Table 13:

An **inspection** is an activity that involves verification of compliance with the environmental or wildlife legislation administered, in whole or in part, by Environment Canada. Only closed files using the end date are tabulated. The number of inspections relates to the number of regulatees inspected for compliance under each of the applicable regulations.

An **investigation** is the gathering and analyzing, from a variety of sources, of evidence and information relevant to a suspected violation or where there are reasonable grounds to believe that an offence has been or is being committed. Investigations are tabulated by the number of investigation files, based on the start date of the investigation. An investigation file may also include activities relating to another piece of legislation and may include one or more regulations. Therefore, the total number of investigations shown by regulation may not add to the total at the legislation level.

The measures are tabulated at the section level of a regulation. For example, if the outcome of an inspection is the issuance of a written warning, which is related to three sections of a given regulation, the number of written warnings is three.

Prosecutions: The number of prosecutions is represented by the number of regulatees that were prosecuted by charge date regardless of the number of regulations involved.

Charges: The number of charges is tabulated at the section level of the regulation by charge date, and by regulatee. For example, a regulatee violating sections 36(1) and 36(3) of the *Fisheries Act* may be charged with one count under section 36(1) and two counts under section 36(3). This is considered two charges: one for each section. Charges are counted in relation to the date the charge was laid, not the date when the case began or ended.

Convictions: The number of convictions is represented by the number of counts where the regulatee was found guilty or pleaded guilty. For example, in a case where a regulatee is found guilty of one count under section 36(1) and two counts under section 36(3), this is considered three convictions.

Counts: The number of counts is tabulated at the section level of the regulation by offence date relating to the regulatee's charge.

Table 13:
Environment Canada Enforcement Activities and Measures Carried Out under the *Fisheries Act*
Fiscal Year 2013-2014

	Inspections[27]				Enforcement Measures						
National	Total	Off-site	On-site	Investigations[28]	Prosecutions	Charges	Counts	Convictions	Written Directives	Written Warnings	Tickets
FA – *Fisheries Act* (Grand Total)	3,025	2,109	916	63	19	22	37	11	64	199	
Chlor-Alkali Mercury Liquid Effluent Regulations	-	-	-		-	-	-	-			
Fish Processing Operations Liquid Effluent Guidelines	1	-	1		-	-	-	-			
General Prohibition	1,565	771	794	52	18	21	36	11	62	83	
Guidelines for Effluent Quality and Wastewater Treatment at Federal Establishments	-	-	-		-	-	-	-			
Meat and Poultry Products Plant Liquid Effluent Regulations and Guidelines	15	13	2		-	-	-	-			
Metal Mining Effluent Regulations	495	419	76	4	-	-	-	-		22	
Petroleum Refinery Liquid Effluent Regulations and Guidelines	6	5	1		1	1	1	-		65	
Potato Processing Plant Liquid Effluent Regulations	24	21	3		-	-	-	-		9	
Pulp and Paper Effluent Regulations	851	819	32	4	-	-	-	-	1		
Deposit Out of Normal Course of Events Notification Regulations	61	55	6	3	-	-	-	-	1	18	
Wastewater Systems Effluent Regulations	7	6	1							2	

[27]**Number of Inspections – new way of counting**: Only files closed between April 1st 2013 and March 30, 2014 are tabulated.
[28]**Number of Investigations**: Only investigations that started in FY 2013-2014 are tabulated here.

Additional Statistics

There were 17 referrals to other federal/provincial or municipal governments or departments. Table 14 presents the breakdown of investigations in 2013-2014.

Table 14:
Investigation Breakdown
Fiscal Year 2013-2014

Investigation Breakdown	No. of Investigations
Investigations started and ended in fiscal year 2013-2014	12
Investigations started in fiscal year 2013-2014 and still ongoing at end of fiscal year 2013-2014	51
Investigations started before 2013-2014 and ended in fiscal year 2013-2014	36
Investigations started before fiscal year 2013-2014 and still ongoing at the end of fiscal year 2013-2014	65

3.5.2 Enforcement Highlights

Newfoundland
On December 20, 2013, the North Atlantic Refining Limited (NARL) of Newfoundland and Labrador was sentenced to pay $100,000 in St. John's Provincial Court after pleading guilty to violating the *Fisheries Act* in relation to the release of fuel from a storm sewer outfall discharging near Powers Pond in Mount Pearl, Newfoundland and Labrador. The penalty includes a $25,000 fine with the remaining $75,000 going to the Environmental Damages Fund.

Quebec
On March 10, 2014, the Century Mining Corporation (Sigma-Lamaque mines) in Val-d'Or, Quebec, was found guilty of violating the *Fisheries Act* and ordered to pay $220,172 dollars for having failed to carry out the EEM studies of its mining effluents. The penalty amount represents a fine of $129,000 dollars and additional fines of $91,712 dollars for monetary benefits under section 79 of the *Fisheries Act*.

Ontario
On December 17, 2013, Domtar Inc. was sentenced in Ontario Provincial Court for violating the *Fisheries Act* for offences occurring at its mill in Espagnola, Ontario between December 14 and 16 of 2010 by failing to adhere to the regulatory limits for biochemical oxygen demand and thereby deposited effluent that was deleterious to fish. The company was ordered to pay $75,000, of which $67,500 will be directed to the Environmental Damages Fund.

Alberta
On December 23, 2013, SemCAMS ULC was ordered to pay $350,000, in Alberta Provincial Court, after pleading guilty to one count under the *Fisheries Act* and one count under provincial environmental legislation. The charges related to a release of 852,000 litres of industrial wastewater into a creek from a ruptured pipeline near Fox Creek, Alberta. The wastewater had been generated from the processing of natural gas and liquid hydrocarbon at the SemCAMS ULC facility and was being transported by an underground pipeline when it ruptured. The penalty represents a $185,000 payment to the Environmental Damages Fund and a $15,000 fine to be paid to the court. The remaining $150,000 of the total penalty relates to the provincial offence.

British Columbia
On November 6, 2013, Teck Metals Ltd. of Rossland, British Columbia was sentenced to pay $210,000 in British Columbia Provincial Court for offences under the *Fisheries Act* and the *Spill Reporting Regulation* of the *Environmental Management Act*, in relation to an incident on March 5, 2011 when approximately 350,000 litres of highly caustic effluent was discharged into the Columbia River through an effluent system at Teck Metals in trail, British Columbia. The toxic release occurred following the disposal of a 50% sodium hydroxide solution into the plant's effluent system. The penalty represents a $5,000 fine each for the charge under the *Fisheries Act* and under the *Spill Reporting Regulation* of the *Environmental Management Act*; $100,000 payable to the Environmental Damages Fund and $100,000 to the Habitat Conservation Trust Foundation.

3.6 Environmental Emergencies Program

The Environmental Emergencies Program (EEP) protects Canadians and their environment from the effects of environmental emergencies through the provision of science-based expert advice and regulations under both the *Fisheries Act* and *Canadian Environmental Protection Act, 1999* (CEPA 1999). The EEP implements the departmental pollution incident notification system. In the event of a significant pollution incident, the program oversees that reasonable response actions are undertaken by the responsible party to mitigate the effects of an unauthorized deposit of deleterious substances, as per subsection 38(6) of the *Fisheries Act*. In the event of a significant pollution incident, the EEP can provide science-based expert advice, 24 hours a day, seven days a week, in collaboration with other federal, provincial, and territorial governments, municipalities and stakeholders, to inform actions that reduce the consequence of environmental emergencies.

In addition, Environment Canada's Environmental Emergencies Officers, being designated as Inspectors under the *Fisheries Act*:

- may receive notifications of deposits of deleterious substances into the environment;

- access and inspect the site of the deposits or any documents in order to observe or to carry out spill response activities;
- collect relevant information and samples for the purpose of establishing the fate and effects of the pollutant, and determine environmental damage;
- issue inspector's directions requiring the responsible parties to take preventive or remedial measures if the inspector is satisfied on reasonable grounds that there is an occurrence and that immediate action is necessary;
- take all reasonable measures or cause them to be taken if the inspector is satisfied on reasonable grounds that there is an occurrence and that immediate action is necessary; and
- support enforcement actions.

3.7 Agreements with Provinces and Territories

3.7.1 Agreements

In 2013-2014, discussions occurred with all provinces and territories towards establishing bilateral agreements to reduce regulatory duplication for the wastewater sector. The establishment of bilateral agreements for the WSER represents a key federal commitment under the Canadian Council of Ministers of the Environment (CCME) Strategy. The addition of new authorities for equivalency agreements under the *Fisheries Act* as of June 29, 2012 added a new mechanism for jurisdictions to consider.

In addition, the Government of Canada has agreements in place with provinces as follows:

Alberta
The *Canada-Alberta Administrative Agreement for the Control of Deposits of Deleterious Substances under the Fisheries Act* entered into force on September 1, 1994. The Agreement establishes the terms and conditions for the cooperative administration of subsection 36(3) and the related provisions of the *Fisheries Act*, as well as regulations under the *Fisheries Act* and the *Alberta Environmental Protection and Enhancement Act*. The Agreement streamlines and coordinates the regulatory activities of Environment Canada and Alberta Environment and Sustainable Resource Development (AESRD) in relation to the protection of fisheries, and reduces duplication of regulatory requirements for regulatees.

During 2013-2014, following referrals received by AESRD, Environment Canada conducted 85 (on-site and off-site) inspections and 12 investigations. Environment Canada conducted an additional 26 planned on-site inspections including 6 under the *Pulp and Paper Effluent Regulations* in accordance with the Agreement.

Quebec
The province of Quebec and the Government of Canada have been collaborating since 1994. The parties currently cooperate through a Memorandum of Understanding for data collection that is in effect until March 2015 whereby Quebec continues to provide a single data entry portal for regulatees for the following federal regulations:

- *Pulp and Paper Mill Effluent Chlorinated Dioxins and Furans Regulations* made pursuant to the *Canadian Environmental Protection Act, 1999*;
- *Pulp and Paper Mill Defoamer and Wood Chip Regulations* made pursuant to the *Canadian Environmental Protection Act, 1999*; and
- *Pulp and Paper Effluent Regulations* made pursuant to the *Fisheries Act*.

Under the Memorandum of Understanding, pulp and paper mills will continue to report their data for these regulations to the electronic reporting system provided by the province of Quebec. Both levels of government retain full responsibility for carrying out inspections and investigations and for taking appropriate enforcement measures in order to ensure compliance with their respective requirements on the part of the industry.

Saskatchewan
The *Canada-Saskatchewan Administrative Agreement for the Control of Deposits of Deleterious Substances under the Fisheries Act* sets out the principles for cooperation and identifies a preliminary list of activities where detailed collaborative arrangements could be developed. Existing collaborative arrangements are described in the five annexes to the agreement.

In 2013-2014, the Saskatchewan Ministry of Environment again reported spills to Environment Canada. Of the reported spills, 42 were possible *Fisheries Act* violations. Environmental Enforcement conducted 10 off-site and 15 on-site inspections of which 2 led to investigations. The remaining 15 occurrence referrals did not require on-site inspections nor further follow up.

3.7.2 Environmental Occurrences Notification Agreements

Federal, provincial and territorial laws require, in most cases, notification of the same environmental emergency or environmental occurrence, such as an oil or chemical spill. To reduce duplication of effort, Environment Canada and Fisheries and Oceans Canada entered into Environmental Occurrences Notification Agreements (Notification Agreements) with the governments of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, the Northwest Territories and Yukon.

These Notification Agreements are supported by the *Release and Environmental Emergency Notification Regulations* under the *Canadian Environmental Protection Act*, 1999, and the *Deposit Out of the Normal Course of Events Notification Regulations* under the *Fisheries Act*.

The purpose of the Notification Agreements is to establish a streamlined notification system for persons required to notify federal and provincial/territorial governments of an environmental emergency or environmental occurrence (e.g., spill, release, etc.). Under these Notification Agreements, 24-hour authorities operating for the provinces and territories receive notifications of environmental emergencies or environmental occurrences, on behalf of Environment Canada, and transfer this information to Environment Canada. In 2013-2014, Environment Canada continued to work with its provincial and territorial counterparts to implement the Notification Agreements. This work included the establishment of management committees and the development of standard operating procedures for the collection and processing of notifications of environmental occurrences. To view the Notification Agreements consult http://www.ec.gc.ca/lcpe-cepa/default.asp?lang=En&n=5200AB4B-1.